

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CHEVRON PIPE LINE COMPANY

AI # 19861

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* **Settlement Tracking No.**
* **SA-AE-05-0067**
*
* **Enforcement Tracking No.**
* **MM-CN-03-0088**
* **MM-CN-03-0088A**
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Chevron Pipe Line Company ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who operates a petroleum break-out terminal known as the Empire-Ostrica Terminal located at or near the east bank of the Mississippi River about three (3) miles south of Empire, Plaquemines Parish, Louisiana ("the Facility").

II

On March 8, 2004, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-03-0088 and then issued MM-CN-03-0088A, an Amended Consolidated Compliance Order & Notice of Potential Penalty on January 12, 2005 to Respondent, which was based upon the following findings of fact:

A.

The facility operates under Air Permit No. 2240-00048-04 issued February 28, 1996. The Respondent was issued Louisiana Water Discharge Permit System (LWDPS) Permit WP0268 on June 26, 1996, with an expiration date of June 25, 2001. The Respondent (as former Gulf Pipe Line) was issued National Pollutant Discharge Elimination System Permit LA0000272 to its Ostrica Terminal on October 5, 1984, with an expiration date of October 4, 1989. The Respondent was issued National Pollutant Discharge Elimination System (NPDES) General Permit LAG340000 for the discharge of storm water associated with petroleum bulk terminal facilities, to its Empire Terminal on July 12, 1984, and specifically was assigned permit number LAG340002. NPDES permit LAG340002 was modified to combine the Empire and Ostrica terminals on March 10, 1987. NPDES permit LAG340002 expired on July 12, 1989, and was administratively continued. Upon assumption of the NPDES program by the state of Louisiana, NPDES permit LAG340002 became a Louisiana Pollutant Discharge Elimination System (LPDES) permit with the same expiration date. The Respondent was granted coverage under LPDES General Permit LAG530000 on August 27, 2004, and specifically was assigned Permit Number LAG531683. LPDES permit LAG531683 expires on November 30, 2007. Under the terms and conditions of LPDES permit LAG531683, the Respondent is authorized to discharge treated sanitary wastewater from its facility to an unnamed pond onsite, thence into the Mississippi River, waters of the state.

B.

On or about August 15, 2001, an inspection was conducted by the Department at the Respondent's Empire-Ostrica Terminal. The inspection revealed the following violations:

- A. The Respondent allowed LWDPS permit WP0268 to expire without submitting a renewal application 180 days before the expiration date of June 25, 2001. The Respondent's failure to submit a renewal application is in violation of LWDPS permit WP0268 (Part III, Sections A.2 and D.8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2331.A.1, LAC 33:IX.2355.A, LAC 33:IX.2355.B, and LAC 33:IX.2331.D.2.
- B. The Respondent was discharging sanitary wastewater without a permit. A discharge was noted from previously permitted outfall 102. Each unauthorized discharge of pollutants to waters of the state is in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.
- C. The Respondent failed to update and maintain its Spill Prevention and Control (SPC) Plan. Specifically, the SPC Plan had not been updated since June 1, 1997, and 19 tanks had been dismantled since that date. The Plan still showed that those tanks were in service. The Respondent's failure to update and maintain its SPC Plan is in violation of La. R.S.30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.905.A, and LAC 33:IX.905.F.

C.

On or about April 10 through 11, 2003, an inspection of the Respondent's Empire-Ostrica Terminal was performed to determine the degree of compliance with the Act, the Air Quality Regulations, and the Water Quality Regulations. In response to the inspection, the Respondent submitted a letter dated April 22, 2003. The Respondent's response was reviewed and taken into consideration. Subsequent to the inspection, the Enforcement Division sent a warning letter dated September 4, 2003, to the Respondent.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection:

- A. A leg sleeve cover ("leg sock") was removed from the tank roof leg sleeve on the Crude Tanks (Emission Points T6113 and T6114), allowing emissions to escape from the open hole. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities. Each of the Respondent's

failure to maintain the roof leg sleeves by having the leg sleeve covers in place on the crude tanks is a violation of LAC 33:III.905 and Section 2057(A)(2) of the Act.

- B. The gaskets for the guide poles at the roof openings on the Crude Tanks (Emission Points T6113 and T6116) were worn and misaligned allowing gaps where there was no contact with the guide pole. Each of the Respondent's failure to have each opening equipped with a seal which is to be maintained in a closed position at all times (i.e., no visible gaps) is a violation of 40 CFR 60.112a(a)(1)(iii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 1 of Air Permit No. 2240-00048-04, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- C. Electric Pumps 6103 and 6104 were noted to be leaking crude oil that was pooled beneath the piping. The Respondent's failure to avoid and clean up spills of volatile organic compounds by employing procedures that reduce or eliminate the emission of volatile organic compounds is a violation of LAC 33:III.2113.A.1 and Section 2057(A)(2) of the Act.
- D. The Respondent was discharging sanitary wastewater without a permit. A discharge was noted from previously permitted outfall 102. Each unauthorized discharge of pollutants to waters of the state is in violation of La. R.S. 30:2075, La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1."

III

The Department would like to clarify that paragraph III.A of the Amended Consolidated Compliance Order & Notice of Potential Penalty should have remained as cited in the original Consolidated Compliance Order & Notice of Potential Penalty issued on March 8, 2004, as follows: "A roof leg was removed from the tank roof leg sleeve on the Crude Tanks (Emission Points T6113 and T6114), allowing emissions to escape from the open hole. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities. Each of the Respondent's failure to maintain the roof leg sleeves by having the roof legs in place on the crude tanks is a violation of LAC 33:III.905 and Section 2057(A)(2) of the Act."

The Respondent noted in the letter dated April 28, 2004, in the response to the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-03-0088 that the leg sleeves are located too close to the gauging platform and stair rail on each tank to allow for proper operation of the floating roofs with the legs pinned in the operational position. In the operational position, these legs protrude to such a height that the gauging platform and floating stair rail may obstruct the legs and therefore the operations of the floating roofs. According to the Respondent, as an alternative to maintaining these legs within the leg sleeves at all times, on August 27, 2003, leg sleeve covers or "leg socks" were installed on these leg sleeve openings, effectively eliminating any potential emission source.

The remaining violations noted herein below are not the subject matter of an enforcement action issued by the Department. However, the Department and the Respondent desire to settle and compromise the violations noted as follows:

On or about August 30, 2004, a file review of the Respondent's Empire-Ostrica Terminal was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. The Respondent reported in a letter dated April 28, 2004, in response to the Consolidated Compliance Order & Notice of Potential Penalty, occasions in addition to those cited in paragraph III.A of the Consolidated Compliance Order & Notice of Potential Penalty in which a roof leg was missing from its leg sleeve for a crude tank. The Respondent noted that one (1) leg roof was missing from its leg sleeve on each of two (2) Crude Tanks (Emission Points T6115 & T6116), allowing emissions to escape from the open hole. When facilities have been installed on a property, they shall be used and diligently

maintained in proper working order whenever any emissions are being made which can be controlled by the facilities. Each of the Respondent's failure to maintain the roof leg sleeves by having the roof legs in place on the crude tanks is a violation of LAC 33:III.905 and Section 2057(A)(2) of the Act.

- B. According to a letter dated June 1, 2004 from the Respondent, during maintenance, the floating roof legs are pinned at a height of 77.6 inches to allow workmen to enter the tank, rather than the 36 inch height used for normal operations. During maintenance in May 2001, workmen learned that the legs had previously been pinned and left in the maintenance position. Because of the pin setting on the floating roof legs, the two (2) Crude Tanks (Emission Points T6101 and T6103) had a small number of roof landings in 1999 and 2000 resulting in a slight increase in emissions estimates for calendar years 1999 and 2000. The failure to have the roof legs put back into position for normal operation resulted in increased emissions from the two (2) Crude Tanks (Emission Points T6101 and T6103). This is a violation of the Louisiana Air Quality Regulations, in particular LAC 33:III.905 which states "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This also constitutes a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.
- C. The Respondent reported in letters dated March 23, 2005, and April 11, 2005, an exceedance of the 8,000,000 barrel per year throughput limit for the Crude Tank (Emission Point T6108) resulting in the exceedance of the volatile organic compounds (VOC) permit limit of 1.7 tons per year in 2004. The Respondent noted that it had received a variance that transferred the throughput limits from tanks that had been removed from the facility to Crude Tank (Emission Point T6108). However, the variance expired on March 21, 2004, and the permit modification application submitted under cover letter dated March 30, 2001, requesting a facility wide cap for the tanks was under review by the Department. According to the Respondent, the facility continued to operate the Crude Tank (Emission Point T6108) at the throughput level allowed by the expired variance. After noting the issue on March 17, 2005, the Respondent applied for and received from the Department another variance on March 24, 2005. The

Respondent reported VOC emissions from the Crude Tank (Emission Point T6108) of 2.9 tons in 2004 (exclusive of the part of the year covered by the variance). According to the Respondent, the facility-wide VOC emissions limit for 2004 of 89.1 was not exceeded. In addition, the Respondent noted that the facility did not exceed the rolling twelve (12) consecutive month throughput limit for all of the tanks. The exceedance of the throughput limit of 8,000,000 barrels per year for Crude Tank (Emission Point T6108) is a violation of Specific Condition No. 6 of Air Permit No. 2240-00048-04, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. The exceedance of the VOC emission limit of 1.7 tons per year listed on the Air Quality Data Sheet of Air Permit No. 2240-00048-04 for Crude Tank (Emission Point T6108) in 2004 is a violation of General Condition II of Air Permit No. 2240-00048-04, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

IV

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VI

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHT THOUSAND TWO HUNDRED AND NO/100 (\$8,200.00), of which ONE THOUSAND SIX HUNDRED SEVENTY FIVE AND 48/100 DOLLARS (\$1,675.48) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalty and the Amended Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Plaquemines Parish, Louisiana. The advertisement, in

form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

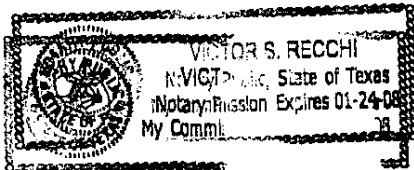
CHEVRON PIPE LINE COMPANY

BY: Tana Daughtrey
(Signature)

Tana Daughtrey
(Printed or Typed)

TITLE: Assistant Secretary

THUS DONE AND SIGNED in duplicate original before me this 8th day of February, 20 06, at 3:32 PM.



Victor S. Recchi
NOTARY PUBLIC (ID #)

Victor S. Recchi
(Printed or Typed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 16th day of May, 20 06, at Baton Rouge, Louisiana.

Palmer A. B. R.
NOTARY PUBLIC (ID # 29771)

Rebbaill S. B. R.
(Printed or Typed)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary